

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rebecca Jacobson	Team: Squad #14	CCRB Case #: 201603042	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/12/2016 6:30 PM	Location of Incident: § 87(2)(b)	Precinct: 23	18 Mo. SOL 10/12/2017	EO SOL 10/12/2017	
Date/Time CV Reported Wed, 04/13/2016 1:15 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/13/2016 1:15 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Yaris Gonzalez	27403	948346	PSA 5

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Tanisha Brown	12284	951561	PSA 5

Officer(s)	Allegation	Investigator Recommendation
A.POF Yaris Gonzalez	Abuse: Police Officer Yaris Gonzalez entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.POF Yaris Gonzalez	Force: Police Officer Yaris Gonzalez hit § 87(2)(b) against a wall.	§ 87(2)(b)
C.POF Yaris Gonzalez	Discourtesy: Police Officer Yaris Gonzalez spoke discourteously to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
D.POF Yaris Gonzalez	Abuse: Police Officer Yaris Gonzalez refused to provide her name and shield number to § 87(2)(b)	§ 87(2)(b)

### Case Summary

On April 13, 2016, § 87(2)(b) filed this complaint with the CCRB via phone. § 87(2)(b) also filed a complaint with IAB on April 12, 2016, which was forwarded to the CCRB on April 19, 2016 via log number 2016-13514.

On April 12, 2016, at approximately 6:30 p.m., PO Yaris Gonzalez and PO Tanisha Brown of Police Service Area 5 arrived at § 87(2)(b)'s residence, § 87(2)(b) in Manhattan, regarding a noise complaint. § 87(2)(b) opened the door and briefly argued with the officers who were standing in the hall. When § 87(2)(b) went to close the door, PO Gonzalez placed her foot and shoulder in the doorway to keep it open (**Allegation A**). PO Gonzalez allegedly pushed the door open, causing § 87(2)(b) to be pushed backwards and hit the wall (**Allegation B**). § 87(2)(b)'s boyfriend, § 87(2)(b) heard the commotion and also came to the door. PO Gonzalez allegedly told them "Shut the fuck up." (**Allegation C**). § 87(2)(b) asked PO Gonzalez for her name and shield number and she allegedly responded "No, I'm not giving you anything." (**Allegation D**). Additional units were called to the home. After the additional units arrived, PO Gonzalez allegedly told § 87(2)(b) "I'm not going no fucking where" and stated to the additional units, in reference to § 87(2)(b) "He keeps fucking cursing at me, I'm not gonna take it anymore." (**Allegation C con't.**) § 87(2)(b) was issued a summons for § 87(2)(b) as a result of the incident.

There is no video footage for this case.

### Mediation, Civil and Criminal Histories

§ 87(2)(b) rejected mediation § 87(2)(b).  
§ 87(2)(b)  
As of June 24, 2016, neither § 87(2)(b) nor § 87(2)(b) had filed a lawsuit regarding the incident (BR 01). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
§ 87(2)(b)  
§ 87(2)(b)

### Civilian and Officer CCRB Histories

- This is § 87(2)(b) and § 87(2)(b)'s first CCRB complaint (BR 03).
- PO Gonzalez has been a member of the NYPD for six years and has had nine previous allegations, involving three cases, filed against her. In case 201212166, allegations of threat of force and discourtesy were unsubstantiated. In case 201504644, allegations of threat of arrest, refusal to provide name and shield, discourtesy, detainment, and interfering with a civilian's ability to record an incident were all substantiated with a CCRB recommendation of command discipline, the NYPD disposition and penalty are not listed in CTS. § 87(4-b) § 87(2)(g).  
§ 87(2)(b) Since this complaint was filed, PO Gonzalez was identified as a subject officer in case 201604058, in which allegations of physical force and discourtesy were not investigated due to truncating as complainant uncooperative.

## **Findings and Recommendations**

### **Allegation A –Abuse of Authority: Police Officer Yaris Gonzalez entered § 87(2)(b) in Manhattan.**

It is undisputed that PO Gonzalez entered the doorway of § 87(2)(b)'s residence.

§ 87(2)(b) stated that she heard knocking on her door and, without opening the door, answered and spoke through the door. An officer, identified through investigation as PO Gonzalez, informed her they were responding to a noise complaint. § 87(2)(b) turned the music she was playing off. PO Gonzalez banged on the door again and asked her to open the door. § 87(2)(b) refused to open the door, but PO Gonzalez continued banging for approximately a minute and telling her to open the door. § 87(2)(b) then partially opened the door, about a foot wide, and began arguing with PO Gonzalez. § 87(2)(b) went to close the door and PO Gonzalez grabbed the knob and pushed the door open. PO Gonzalez entered the apartment, moving into the entry hallway of the apartment and then moving into the living room. As PO Gonzalez moved into the living room, § 87(2)(b) jumped up and began yelling at PO Gonzalez (BR 04).

§ 87(2)(b) stated that PO Gonzalez banged on the door and stated it was the police. § 87(2)(b) went to the door and then turned off the music they had been listening to. PO Gonzalez kept banging on the door, so § 87(2)(b) partially opened the door. PO Gonzalez told § 87(2)(b) that she needed to open the door; § 87(2)(b) replied that she had turned the music down and went to close the door. PO Gonzalez then pushed the door open. § 87(2)(b) got up to check on § 87(2)(b) and told PO Gonzalez to get away from the door several times. § 87(2)(b) began arguing with PO Gonzalez at the door. While they were arguing, PO Gonzalez was holding the door open with her foot and walked past the threshold of the door (BR 05).

§ 87(2)(b) § 87(2)(b)'s daughter, stated that she was inside of her bedroom when, from her bedroom, she heard two officers knock on the door. § 87(2)(b) said through the door to the officers, "There are people in the world that are getting killed, so you should be out there doing your job." The officers then started excessively knocking on the door. § 87(2)(b) came out of her bedroom as § 87(2)(b) opened the door about halfway wide and repeated the same phrase to the officers and tried to close the door. PO Gonzalez then pushed the door open with her shoulder. PO Gonzalez was halfway into the apartment and was holding the door open with her foot (BR 06).

PO Gonzalez stated that after receiving a noise complaint, they responded to the apartment, where she knocked twice on the door. PO Gonzalez heard the sound of the peephole sliding open and knocked a third time, at which point § 87(2)(b) told the officers to "fucking go away." PO Gonzalez knocked again and § 87(2)(b) fully opened the door and stepped about 1-2 feet into the hallway. § 87(2)(b) kept cursing at the officers and "got in PO Brown's face," getting within an arm's length of her and waving her hands in her face. After about a minute, § 87(2)(b) attempted to run back to her apartment and close the door on the officers. PO Gonzalez put her foot in the doorframe and blocked the door with her shoulder, holding tightly on

to the door knob. PO Gonzalez was trying to prevent § 87(2)(b) from closing the door because she wanted to issue her a summons. At the end of the incident, PO Gonzalez issued a summons to § 87(2)(b) at the direction of a lieutenant from the 23<sup>rd</sup> Precinct. She stated she would have issued § 87(2)(b) a summons for disorderly conduct and violent behavior, but she ran out of summonses in her summons pad (BR 07).

PO Brown stated that she, and possibly also PO Gonzalez, knocked on § 87(2)(b)'s door for a few seconds when § 87(2)(b) started banging on the door from her side and yelled "get the fuck away from my door" and "I'm tired of this bullshit." The officers stopped knocking and within a few seconds, § 87(2)(b) fully opened the door. PO Brown and PO Gonzalez were standing at the threshold of the door and asked § 87(2)(b) to turn down the music. § 87(2)(b) became loud, irate, and started flailing her hands in the officers' face, throwing her hands forward. § 87(2)(b) was in PO Brown and PO Gonzalez's faces, closer than a foot to them. § 87(2)(b) was still standing inside her apartment and the officers were still standing at the doorway. Originally, PO Brown stated that § 87(2)(b) came to the door, got loud and irate, and attempted to close the door. Later in her CCRB interview, PO Brown stated that as § 87(2)(b) attempted to close the door, § 87(2)(b) came and moved her out of the door and was yelling and standing directly in front of the officers, attempting to close the door. PO Gonzalez put her foot in the doorway, PO Brown believed she had placed her foot there when the door first opened, and PO Gonzalez used her foot to block the door from closing. PO Brown stated that it was PO Gonzalez's decision to write the summons that was issued. According to her, originally the intent of the officers was to knock on the door and get them to turn down the music, but after the call for additional units and everyone getting irate, the decision was made to write the summons (BR 08).

A warrantless entry into a private residence is presumptively unreasonable unless the circumstances generate one of the four exceptions to the warrant clause: (1) consent, (2) hot pursuit, (3) exigency, or (4) emergency.

§ 87(2)(b) and § 87(2)(b) were both clear that they did not provide consent for PO Gonzalez to enter the residence.

The hot pursuit exception requires that an officer initiate the arrest in a public place, after which the officer may enter a private residence that the defendant flees into to evade arrest. People v. Hunter, 92 A.D.3d 12777 (4<sup>th</sup> Dept. 2012) (BR 09). Exigent circumstances may create an exception to the warrant requirement if there is an urgent need to enter the location. Six factors are used to determine amount of exigency involved: (1) the gravity or nature of the suspected offense, (2) whether the suspect is believed to be armed, (3) probable cause that the suspect committed the crime, (4) a strong reason to believe that the suspect is inside the premises being entered, (5) the likelihood of escape, and (6) the peaceful circumstances of the entry. People v. McBride, 14 N.Y.3d 440 (2010) (BR 10). The emergency exception requires that officers must reasonably believe that an emergency is at hand that necessitates their immediate intervention to protect the life or property. The entry cannot be to make an arrest or collect evidence and an element of probable cause linking the location to the emergency must exist. People v. Greenleaf, 222 A.D.2d 838 (3<sup>rd</sup> Dept. 1995) (BR 11).

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

**Allegation B – Force: Police Officer Yaris Gonzalez hit § 87(2)(b) against a wall.**

§ 87(2)(b) alleged that PO Gonzalez grabbed the door knob and pushed the door open. § 87(2)(b) who was still holding on to the knob, was pushed backwards, hitting the wall, from the force of the door. § 87(2)(b) stated that later that night, she went to § 87(2)(b) because her back was hurting. X-rays were taken, but everything was fine, and she was given ibuprofen.

§ 87(2)(b) stated that PO Gonzalez pushed the door open and § 87(2)(b) was pushed backwards, hitting her back on the wall as a result. § 87(2)(b) stated that PO Gonzalez pushed the door open with her shoulder and § 87(2)(b) was slammed backwards onto the kitchen sink, § 87(2)(b) explained the kitchen is right near the door.

PO Gonzalez denied ever pushing the door open. She stated that she only ever held the door open from being closed. She did not ever try to open the door further than it already was, all her effort was concentrated on preventing § 87(2)(b) from closing the door. PO Gonzalez denied pushing the door open and causing § 87(2)(b) to be hit against a wall or object. § 87(2)(b) did not complain of any injuries or complain about being pushed.

PO Brown did not see PO Gonzalez push the door open with her hand, push the door open, or as a result push § 87(2)(b) into the wall. She did not hear § 87(2)(b) complain of getting hit by the door.

§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Discourtesy: Police Officer Yaris Gonzalez spoke discourteously to § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) stated that while she and § 87(2)(b) were arguing with PO Gonzalez at the doorway, PO Gonzalez told them “Shut the fuck up.”

§ 87(2)(b) stated that later in the incident, after the additional units had arrived and officers had come into the apartment, he kept telling the officers, “You don’t have a warrant, get the fuck out.” PO Gonzalez responded to him, “I’m not going no fucking where.”

§ 87(2)(b) stated that after the additional officers arrived at the apartment, she heard PO Gonzalez tell them, “He keeps fucking cursing at me, I’m not gonna take it anymore.”

PO Gonzalez denied making any of those three statements, using profanity at any time, or hearing PO Brown use any profanity. PO Brown denied hearing PO Gonzalez say those statements, and

denied saying them herself. She denied hearing PO Gonzalez, or any other officer, use any profanity during the incident.

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation D – Abuse of Authority: Police Officer Yaris Gonzalez refused to provide her name and shield to § 87(2)(b)**

§ 87(2)(b) [REDACTED] alleged that while he was arguing with PO Gonzalez at the door, he asked her for her name and shield number. PO Gonzalez allegedly responded to him, “No, I’m not giving you anything.”

Neither § 87(2)(b) [REDACTED] nor § 87(2)(b) [REDACTED] made mention of hearing § 87(2)(b) [REDACTED] request PO Gonzalez’s name and shield number, or her refusing to provide it.

PO Gonzalez stated that the only time § 87(2)(b) [REDACTED] requested her name and shield number was while she was writing him a summons and that she informed him that it would be on the summons. She did not hear him ask any other officer for her name and shield and did not hear any officer refuse providing this information to § 87(2)(b) [REDACTED]

PO Brown did not recall anyone from the apartment request her or PO Gonzalez’s name and shield and did not hear PO Gonzalez refuse giving her name or shield to anyone in the apartment.

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

---

Squad: 14

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_

Title/Signature

Print

Date